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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,481	04/06/2005	Junji Hoshiba	MD3015-0031	5334
39083 7590 09/14/2007 CERMAK KENEALY & VAIDYA, LLP 515 EAST BRADDOCK RD SUITE B Alexandria, VA 22314			EXAMINER PARSLEY, DAVID J	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,481

Applicant(s)

HOSHIBA ET AL.

Examiner

David J. Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4-6-05, 6-24-05</u> | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Preliminary Amendment

1. Entry of applicant's preliminary amendment dated 4-6-05 into the application file is acknowledged.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it begins with an implied statement.

Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: it does not contain a brief description of the drawings section describing each drawing figure.

Appropriate correction is required.

Claim Objections

4. Claim 4 recites the limitation "the feeding bottle" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 10, 12, 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,529,575 to Schalk.

Referring to claim 1, Schalk discloses an artificial nipple for an experimental animal comprising, a replaceable duct – at 18, in a nipple – at 19 – see figures 3 and 6, and a structure – at 36,41,43,42,37, that prevents a liquid from accumulating in the nipple except in a nipple tip and the duct – see figures 3 and 6.

Referring to claim 2, Schalk discloses the structure that prevents the liquid from accumulating is achieved by filling the nipple with an elastic member – at 43 – see figures 3 and 6.

Referring to claims 3, 6 and 12, Schalk discloses a check valve – at 41, provided in a joint part with a feeding bottle – at 10,18,26, – see figures 3 and 6.

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Referring to claims 4 and 10, Schalk discloses the feeding bottle comprising therein a replaceable tube – at 10,18 – see figures 1 and 3 where the tubular portions at 10 and 18 are part of the bottle and therefore are in the assembly of the bottle and therefore meet the limitations of a feeding bottle comprising therein a replaceable tube.

Referring to claims 7, 15 and 17, Schalk discloses a mechanism by which liquid stops flowing when an experimental animal drinks a predetermined amount or a certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see 34 in figures 3 and 6.

Referring to claim 8, Schalk discloses a mechanism by which the experimental animal is allowed to voluntarily drink the liquid again upon application of a pressure from outside the feeding bottle after the liquid stops flowing when the experimental animal drinks the predetermined amount or the certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see at 10,34 in figures 3 and 6.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5, 9, 11, 13-14, 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schalk as applied to claims 1 or 4 or 10 above, and further in view of U.S. Patent No. 5,010,847 to Braden.

Referring to claims 5 and 11, Schalk does not disclose the tube is marked with calibrations for measurement and/or a movable mark – see at 16 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Schalk and add the tube with calibrations of Braden, so as to allow a user to know how much liquid is in the bottle during use.

Referring to claims 9 and 20, Schalk further discloses the nipple is attached to a feeding bottle – at 10, including a replaceable tube – at 10,18 – see figures 3 and 6. Schalk does not disclose the tube is marked with calibrations for measurement and/or a movable mark – see at 16 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Schalk and add the tube with calibrations of Braden, so as to allow a user to know how much liquid is in the bottle during use.

Referring to claims 13-14, Schalk as modified by Braden further discloses a check valve – at 41, provided in a joint part with a feeding bottle – at 10,18,26, – see figures 3 and 6 of Schalk.

Referring to claims 16 and 18, Schalk as modified by Braden further discloses a mechanism by which liquid stops flowing when an experimental animal drinks a predetermined amount or a certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see 34 in figures 3 and 6 of Schalk.

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Referring to claim 19, Schalk as modified by Braden further discloses a mechanism by which the experimental animal is allowed to voluntarily drink the liquid again upon application of a pressure from outside the feeding bottle after the liquid stops flowing when the experimental animal drinks the predetermined amount or the certain amount of the liquid and thereby the internal pressure of the feeding bottle becomes negative – see at 10,34 in figures 3 and 6 of Schalk.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to liquid feeding devices for animals in general:

U.S. Pat. No. 1,127,797 to Moore – shows bottle with replaceable tube

U.S. Pat. No. 2,307,220 to Hewitt – shows nipple assembly

U.S. Pat. No. 2,722,217 to Rose-Miller – shows nipple assembly

U.S. Pat. No. 3,602,197 to Fioretto – shows nipple assembly

U.S. Pat. No. 3,698,685 to Lang – shows nipple assembly

U.S. Pat. No. 3,698,952 to Rose-Miller – shows nipple assembly

U.S. Pat. No. 4,393,813 to Sou – shows nipple and bottle assembly

U.S. Pat. No. 5,494,000 to Tanabe – shows nipple assembly

U.S. Pat. No. 5,638,769 to McIntyre et al. – shows nipple assembly

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U.S. Pat. No. 5,784,999 to Larson et al. – shows nipple assembly

U.S. Pat. No. 6,003,468 to Edstrom et al. – shows nipple assembly


U.S. Pub. No. 2003/0079692 to Steudler et al. – shows nipple assembly

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DAVID PARSLEY
PRIMARY EXAMINER